



Thrift Savings Plan BULLETIN

for Agency TSP Representatives

01-22

Subject: Effect of Nonpay Status on Thrift Savings Plan Participation

Date: May 3, 2001

This bulletin explains how placement in nonpay status, e.g., furlough or leave without pay (LWOP), affects an employee's Thrift Savings Plan (TSP) participation. It reflects the changes to the TSP that will occur beginning May 1, 2001, and supersedes TSP Bulletin 97-43, dated December 18, 1997. Attachment 1 to this bulletin is a revised Fact Sheet that agency representatives should provide to employees with TSP accounts who enter nonpay status. Attachment 2 is Form TSP-41, which agency representatives should complete to report to the TSP the nonpay status of employees who have TSP loans; this form has not been revised.

This bulletin **does not apply** to employees placed on leave without pay (LWOP) to perform an assignment with a state or local government agency under the provisions of the Intergovernmental Personnel Act or to employees placed on LWOP to serve as full-time officers or employees of a union. These employees can continue to contribute to their TSP accounts and their employing offices must continue to deduct and send loan payments, as explained in 5 C.F.R. part 1620.

In addition, while most of the provisions of this bulletin apply to employees placed in nonpay status to perform military service, different provisions apply **if and when** these employees return to duty pursuant to chapter 43 of title 38, United States Code. See TSP Bulletin 95-13, Implementation of Thrift Savings Plan Provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), dated April 21, 1995, for information about application of the TSP provisions of USERRA.

(Continued on next page)

Inquiries: Questions concerning this bulletin should be directed to the Federal Retirement Thrift Investment Board at **202-942-1460**.

Chapter: This bulletin may be filed in Chapter 3, Eligibility.

Supersedes: This bulletin supersedes TSP Bulletin 97-43, Effect of Nonpay Status on Thrift Savings Plan Participation, dated December 12, 1997.

I. TSP Contributions

A. Contribution elections

Placement in nonpay status does not affect an employee's eligibility to make TSP contribution elections. Agencies must process contribution elections made by employees in nonpay status just as they process contribution elections made by employees in pay status. See TSP Bulletin 01-4, Participation in the Thrift Savings Plan, dated February 2, 2001, for information about contribution elections and their processing by agencies.

B. Contribution allocations

Placement in nonpay status does not affect an employee's eligibility to make a contribution allocation. The TSP will process contribution allocations made by employees in nonpay status just as they process contribution allocations made by employees in pay status. See TSP Bulletin 01-2, Processing Agency Submissions in the Modified Current Record Keeping System, dated January 10, 2001, for information about contribution allocations and their processing by the TSP.

C. Determining contributions

1. If an employee is in nonpay status for an entire pay period, TSP employee and agency contributions are not made for that pay period. This is true even if the employee is receiving benefits from the Office of Workers' Compensation Programs (OWCP). TSP contributions, including the Agency Automatic (1%) Contributions made to the accounts of employees covered by FERS¹, are based upon the basic pay the employee earned for the pay period. Because the employee's basic pay is zero, TSP contributions are zero. (An employee receiving OWCP benefits is **not** receiving basic pay, which is defined by law at 5 U.S.C. § 8331.)

An employee cannot make up the missed TSP contributions when he or she returns to pay status.²

2. If an employee receives some basic pay for working a portion of a pay period:
 - a. The Agency Automatic (1%) Contribution for the pay period is determined using the basic pay the employee earned for the pay period.

¹ FERS refers to the Federal Employees' Retirement System, the Foreign Service Pension System, and other equivalent Federal retirement systems.

² Employees placed in nonpay status to enter military service cannot make or receive TSP contributions. However, if these employees return to duty pursuant to 38 U.S.C. 43, they have the opportunity to make up and receive contributions missed while performing military service.

- b. If the employee elected to contribute a percentage of pay, the Employee Contribution for the pay period is determined using the basic pay earned for the pay period.

If the employee elected to contribute a whole dollar amount, and the amount exceeds the maximum allowable percentage of the employee's basic pay for that pay period, the Employee Contribution must be reduced to the maximum allowable percentage of the basic pay³. If the elected whole dollar amount exceeds the employee's net pay for the pay period, **no** Employee Contribution is made for the pay period.

- c. The Agency Matching Contribution for the pay period is determined using the basic pay the employee earned and the Employee Contribution made for the pay period.
- 3. For more information about determining TSP contributions, see TSP Bulletin 97-12, Basic Pay for Thrift Savings Plan Purposes, dated March 21, 1997.

II. TSP Loans

A. Effect of nonpay status

- 1. Because under the TSP loan program loan payments may only be made through payroll allotments, employees in nonpay status are not eligible to receive TSP loans until they return to pay status.
- 2. If an employee who has a TSP loan is in nonpay status for one or more pay periods, the employee will miss loan payments. Also, an employee in nonpay status for less than a single pay period will miss a loan payment if the employee's pay is not enough to make the payment. The agency is not to adjust the amount of the loan payment; the full loan payment must be made.
- 3. If an employee misses payments for less than 90 days, the loan payment schedule will be extended. However, the loan must be repaid in full by the eighteenth anniversary of the loan issuance date for residential loans or by the fifth anniversary of the loan issuance date for all other loans.
- 4. If an employee misses payments for 90 or more days, and
 - (a) the employee is in an approved nonpay status⁴, and

³ See TSP Bulletin 01-3, New Thrift Savings Plan Employee Contribution Limits, dated January 23, 2001, for the maximum allowable percentages.

⁴ Approved nonpay status is the result of agency management's approval of the employee's absence from duty (e.g., furlough, leave without pay, pending resolution of a grievance or appeal, and suspension). AWOL (absence without leave) is **not** an approved nonpay status.

- (b) the TSP has been so informed, and
- (c) the employee returns to pay status so that loan payments resume within one year,

the employee must reamortize the loan when he or she returns to pay status. If the employee fails to reamortize the loan, the loan must be prepaid in full. If the loan is not reamortized or prepaid in full, a taxable distribution will be declared.

5. If an employee misses payments for 90 or more days, and:

- (a) the employee is in an approved nonpay status, and
- (b) the TSP has been so informed, but
- (c) the employee does not return to pay status, and therefore loan payments cannot resume within 1 year,

the employee must prepay the loan in full at the end of the first year of the nonpay status or be subject to a taxable distribution of the unpaid loan principal and any accrued interest.

6. If an employee misses payments for 90 or more days, and

- (a) the employee's nonpay status has **not** been approved (e.g., the employee is absent without leave), or
- (b) the TSP has **not** been informed that the employee's nonpay status has been approved,

the employee must reamortize the loan. However, if the employee is unable to reamortize the loan because he or she is still in nonpay status, the loan must be prepaid in full. If the loan is not reamortized or prepaid in full, a taxable distribution will be declared.⁵

7. See the booklet *Thrift Savings Plan Loan Program* for additional information on how missing loan payments will affect employees.

B. Employee responsibilities

Employees are responsible for repaying their loans, according to the terms established by their Loan Agreement/Promissory Note, Form TSP-21 (or the Rider to that form if the loan is reamortized). The Loan Booklet and the loan paperwork signed by employees explain that they must notify the TSP record keeper, the National Finance Center (NFC), if they enter an approved nonpay status. If they do not do so, a taxable distribution may result. **Taxable distributions may also subject some employees to a tax penalty. (See the Loan Booklet for an explanation of taxable distributions.)**

⁵ Application of the rules in items 4, 5, and 6 may be different for certain employees who had been placed in nonpay status to perform military service. See TSP Bulletin 95-13.

As outlined in the attached Fact Sheet, employees may notify NFC of their approved nonpay status by sending a copy of the SF-50, Notification of Personnel Action, that documents the nonpay status, or by asking their agencies to send other written notification (i.e., the attached form or a letter on agency letterhead) to document the approved nonpay status.

C. Agency responsibilities

1. When an employee who has a TSP loan is placed in approved nonpay status, an agency representative (e.g., a personnel or payroll representative or the employee's supervisor) must send NFC written notification of this action upon the employee's request or upon receipt of the notice of missing payments, as described in Section D below. **An agency's failure to send this notification timely may result in a taxable distribution of the employee's loan.**

Acceptable notification must include the employee's name, date of birth, and Social Security number; the beginning date of the nonpay status; the anticipated ending date of the nonpay status; and the signature and title of the agency representative providing the information. Acceptable notification may be any one of the following items:

- the employee's SF-50, Notification of Personnel Action, documenting the nonpay status; or
- Form TSP-41, Notification to TSP of Nonpay Status (Attachment 2), which we have developed for this purpose; or
- a letter on agency letterhead from the agency personnel office which includes the information above.

2. Agency representatives may mail or telefax this information to NFC. The address and telefax number are:

National Finance Center
Thrift Savings Plan Operations Office
Attention: Accounts Maintenance Branch
P.O. Box 61820
New Orleans, LA 70161-1820
FAX: (504) 255-5199

3. If the employee's period of approved nonpay status is extended, the agency should inform NFC of the new ending date of the employee's nonpay status by again sending one of the items described above.
4. When the employee returns to pay status, the agency must resume the employee's loan payments. If the loan must be reamortized, NFC will then notify the employee and, after the employee reamortizes the loan, send the

agency the employee's Form TSP-22-R, Loan Payment Allotment Form — Reamortization. The agency must then deduct and report the reamortized amount.

5. Although agencies are responsible for sending loan payments consistent with the Loan Payment Allotment Forms (TSP-22 or TSP-22-R for reamortized loans) provided to them by NFC, **agency errors in sending loan payments do not relieve the employees of the responsibility for correct loan repayments. Consequently, agency errors may cause employees serious financial harm if corrective actions are not taken within the stated time frames.** (See TSP Bulletin 91-22, Revision of Forms TSP-22 and TSP-22-R, dated August 8, 1991, for information about the Loan Payment Allotment Forms.)
6. Agencies should call the TSP Operations Office at (504) 255-5110 if they have any questions about correct loan payments for their employees, or if they have questions about the notices sent to them by NFC.

D. NFC responsibilities

1. If a loan payment is missed and the agency has not notified NFC that the employee is in approved nonpay status, NFC will send a notice to **both** the employee and the employee's payroll office that correct loan payments have not been received.

The notice to the agency instructs the agency to:

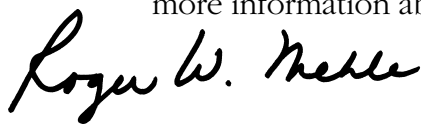
- resume correct loan payments if the employee is in pay status; or
 - submit an Employee Data Record (01-Record) with the TSP-Separation Code and TSP-Separation Date if the employee has separated or transferred; or
 - send one of the items explained in Section III.C.1, above, if the employee is in approved nonpay status.
2. If — after about 60 days — correct loan payments have not resumed and NFC has still not been notified of the employee's approved nonpay status (or separation), NFC will send the notice (marked "second notice") to both the employee and the employee's payroll office again.
 3. If proper notification of approved nonpay status is received, no action will be taken until the ending date of the nonpay status or until one year has passed, whichever is earlier.
 4. If, after 90 days of missed payments, the agency has failed to send proper notification confirming the employee's approved nonpay status, reamortization paperwork will be sent to the employee for completion.

If the employee fails to return the reamortization paperwork, or if the correct reamortized payment is not received in the allotted time, the employee must prepay the loan or a taxable distribution will be declared.

If NFC receives a late agency report of the employee's approved nonpay status before the loan is closed by payment in full or taxable distribution, NFC will review the nonpay documentation in conjunction with the missed payments and take appropriate action.

IV. TSP In-Service Withdrawals

The Thrift Savings Plan Act of 1996 (Public Law 104-208) provided for two types of in-service withdrawals. Consequently, participants who are in nonpay status may withdraw funds from their TSP accounts if they are age 59½ or older or if they are experiencing financial hardship. See TSP Bulletin 98-26, dated April 12, 1998, for more information about TSP in-service withdrawals.



ROGER W. MEHLE
Executive Director

Attachments: Thrift Savings Plan Fact Sheet "Effect of Nonpay Status on
TSP Participation"

Form TSP-41, Notification to TSP of Nonpay Status



THRIFT SAVINGS PLAN

NOTIFICATION TO TSP OF NONPAY STATUS

TSP-41

Agency representatives may use this form to notify the Thrift Savings Plan (TSP) recordkeeper when a participant who has a TSP loan is placed in an approved nonpay status. Agency representatives may also use this form to notify the TSP recordkeeper when a participant's period of nonpay status is extended. If you have any questions, call the TSP Operations Office at the number listed below. Agency representatives should mail or fax this completed form to:

Accounts Maintenance Branch
Thrift Savings Plan Operations Office
National Finance Center
P.O. Box 61820
New Orleans, LA 70161-1820
Telephone: (504) 255-5110
Fax: (504) 255-5199

I. INFORMATION ABOUT THE EMPLOYEE

1. Name of Employee _____
Last First Middle
2. Social Security No. _____ - _____ - _____ 3. Date of Birth _____ / _____ / _____
Month Day Year
4. Loan Account Number(s) _____
First Loan Second Loan (if any)

For a participant with two TSP loans:

- If loan payments are submitted separately, provide the account numbers for both loans.
- If loan payments are submitted as a combined payment, provide only the applicable account number.

II. INFORMATION ABOUT NONPAY STATUS

5. **Beginning Date of Nonpay Status**
(or Effective Date of Extension
of Nonpay Status):

_____/_____/_____
Month Day Year

6. **Ending Date of Nonpay Status**
(or Not-to-Exceed Date):

_____/_____/_____
Month Day Year

III. AGENCY CERTIFICATION

7. _____ 8. _____
Signature of Agency Official Date Signed
9. _____ 10. (_____) _____ - _____
Typed or Printed Name of Agency Official Telephone Number
11. _____
Title of Agency Official